

IN THE  
**SUPREME COURT OF THE  
 UNITED STATES**  
 OCTOBER TERM, 1989

MICHIGAN CITIZENS FOR AN INDEPENDENT PRESS, *et al.*,  
*Petitioners.*

v.

RICHARD THORNBURGH,  
 UNITED STATES ATTORNEY GENERAL, *et al.*,  
*Respondents.*

On Writ of Certiorari to the  
 United States Court of Appeals  
 for the District of Columbia

BRIEF AMICI CURIAE OF  
 DETROIT RENAISSANCE, INC.,  
 THE CENTRAL BUSINESS DISTRICT ASSOCIATION,  
 GREATER DETROIT CHAMBER OF COMMERCE  
 IN SUPPORT OF RESPONDENTS

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INTEREST OF AMICI CURIAE

This brief is submitted by three Detroit and Southeastern Michigan civic, business and economic development organizations. Consents of the parties to the filing of this brief have been filed with the Clerk. Together, the membership of the amici comprise a broad cross-section of businesses operating in the primary circulation area of the two respondent newspapers, Detroit Free Press and The Detroit News. The amici and their members share an interest in promoting the economic and social vitality of the region, and in preserving competitive and diverse news gathering organizations and editorial voices in their community. Members of the amici organizations are also substantial advertisers in the Free Press and News. The amici are more fully described below:

Detroit Renaissance, Inc., a Michigan nonprofit corporation, is devoted to the economic revitalization of the City of Detroit. The Board of Directors is composed primarily of chief executive officers of the major automobile companies, manufacturers, banks, utilities and commercial businesses in the Detroit area.

The Central Business District Association, a Michigan nonprofit corporation, is devoted to the improvement and vitalization of the Downtown Detroit business district. Membership is composed primarily of business owners and other business representatives.

Greater Detroit Chamber of Commerce, a Michigan nonprofit corporation, is a regional economic development organization composed of 4,200 business and professional firms in the three-county Greater Detroit area of Wayne, Oakland and Macomb counties. Its activities are aimed at enhancing the ability of Greater Detroit and Southeast Michigan's businesses to prosper locally and compete in national and international markets, and to attracting new businesses to the region.

#### ARGUMENT

As representatives of Detroit's major civic and business organizations, we urge the Supreme Court to uphold the finding of the U.S. Circuit Court of Appeals and approve the proposed joint operating agreement between the Detroit Free Press and The Detroit News. We believe that the JOA, while perhaps not a perfect answer to the harsh realities of newspaper economics, is the best means available to assure that this community is served by diverse editorial voices, competing sources of news and information and alternate means for many of our members as advertisers to communicate with large numbers of people.

The JOA, we are convinced, is necessary. We are persuaded that the Free Press meets the law's definition of "a failing newspaper." We have watched the long struggle between Detroit's two daily newspapers and followed the legal process by which the merits of the JOA have been weighed. The Free Press has been struggling for years against the fundamental reality that The Detroit News, despite the relative closeness of overall circulation numbers, enjoys a strong advantage in the primary market. As business people concerned with finding the most efficient means of communicating information about our products or services, our members understand the advantage The Detroit

News has in selling advertising, particularly to retail and classified advertisers who are concerned about the concentrated reach of the media in which they advertise. We understand the constraints under which the Free Press operates in trying to control its own destiny, constraints that limit its ability to dictate its own pricing strategy. At the same time, we recognize that the JOA would afford important opportunities for savings on the costs of production.

From the perspective of the business and civic community, the ideal would be, of course, the continuation of full and unbridled competition between the two papers. The Free Press has struggled for 10 years to compete with The Detroit News, and it is unreasonable to expect, in the face of steadily rising losses, that a failing economic enterprise will be sustained indefinitely. The law permitting JOAs was intended by Congress to minimize the damage to the community from the abandonment of the struggle by the weaker of the competitors. Detroit, we believe, needs the help of that law to preserve separate editorial voices and competing sources of information.

Our interest in preserving the two voices is in part born of a concern for the welfare of the community. The two newspapers deal with the community from quite different perspectives. They often disagree with each other, with us and with our members. We believe that the clash of ideas and viewpoints is healthy for our community. It is also important to maintain two strong, statewide newspapers. The loss of one of the Detroit newspapers, we are convinced, would result in diminution of Detroit's role in the state. There is, therefore, a substantial community interest in the survival of the Free Press.

Our members also have, we believe, a more direct business interest in the survival of both papers under a JOA. We believe the JOA would have distinct advantages over the survival of a single newspaper for the advertiser, as well as for the communication of information and viewpoints through the independent news and editorial columns of the papers. Detroit and Michigan need the Free Press to survive, and our business community needs the Free Press as well. The JOA represents the only practical means to assure that the Free Press will survive.

Therefore, we urge the Supreme Court to affirm the decision of the U.S. Circuit Court of Appeals and assure the survival of two newspapers for this community.

Respectfully submitted,

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